

Regulation of Investigatory Powers (Scotland) Act 2000

2000 asp 11

Supplementary provisions

31 Interpretation

(1) In this Act—

“apparatus” includes any equipment, machinery or device and any wire or cable;

“communication” includes—

(a) anything comprising speech, music, sounds, visual images, or data of any description; and

(b) signals serving either for the impartation of anything between persons, between a person and a thing or between things or for the actuation or control of any apparatus;

“covert human intelligence source” shall be construed in accordance with section 1(7) above;

[^{F1}“the Investigatory Powers Commissioner” and “Judicial Commissioner” have the same meanings as in the Investigatory Powers Act 2016 (see section 263(1) of that Act);]

“directed” and “intrusive”, in relation to surveillance, shall be construed in accordance with section 1(2) to (5) above;

^{F2}

...

^{F3}

...

[^{F4}“Police Service” means the Police Service of Scotland;]

^{F2}

...

^{F5} “private vehicle” means (subject to subsection (9)(a) below) any vehicle which is used primarily for the private purposes of the person who owns it or of a person otherwise having the right to use it;

“residential premises” means (subject to subsection (9)(b) below) so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation that is so occupied or used);

Changes to legislation: There are currently no known outstanding effects for the Regulation of Investigatory Powers (Scotland) Act 2000, Section 31. (See end of Document for details)

[^{F6} “ senior officer ” has the same meaning as in the Police and Fire Reform (Scotland) Act 2012 (asp 8);]

“ surveillance ” shall be construed in accordance with subsections (2) to (3) below;

^{F3}
...

“ surveillance device ” means any apparatus designed or adapted for use in surveillance;

“ the Tribunal ” has the same meaning as in section 23(1) above.

- (2) Subject to subsection (3) below, in this Act “ surveillance ” includes—
- (a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
 - (b) recording anything monitored, observed or listened to in the course of surveillance; and
 - (c) surveillance by or with the assistance of a surveillance device.
- (3) References in this Act to surveillance do not include references to—
- (a) any conduct of a covert human intelligence source for obtaining or recording (whether or not using a surveillance device) any information which is disclosed in the presence of the source;
 - (b) the use of a covert human intelligence source for so obtaining or recording information; or
 - (c) any such entry on or interference with property or with wireless telegraphy as would be unlawful unless authorised under Part III of the Police Act 1997 (c.50) (authorisation of interference with property or wireless telegraphy).
- (4) References in this Act to an individual holding an office or position with a public authority include references to any member, official or employee of that authority.
- [^{F7}(4A) References in this Act to a staff officer of the Police Investigations and Review Commissioner are references to any person who—
- (a) is a member of the Commissioner's staff appointed under paragraph 7A of schedule 4 to the Police, Public Order and Criminal Justice (Scotland) Act 2006; or
 - (b) is a member of the Commissioner's staff appointed under paragraph 7 of that schedule to whom paragraph 7B(2) of that schedule applies.]
- (5) For the purposes of this Act the activities of a covert human intelligence source which are to be taken as activities for the benefit of a particular public authority include any of that source’s conduct as such a source which is in response to inducements or requests made by or on behalf of that authority.
- (6) In this Act—
- (a) references to crime are references to conduct which constitutes one or more criminal offences or is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom would constitute one or more criminal offences; and
 - (b) references to serious crime are references to crime that satisfies the test in subsection (7)(a) or (b) below.
- (7) Those tests are—

Changes to legislation: There are currently no known outstanding effects for the Regulation of Investigatory Powers (Scotland) Act 2000, Section 31. (See end of Document for details)

- (a) that the offence or one of the offences that is or would be constituted by the conduct is an offence for which a person who has attained the age of 21 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more;
 - (b) that the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- (8) For the purposes of this Act, detecting crime shall be taken to include—
- (a) establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed; and
 - (b) the apprehension of the person by whom any crime was committed,
- and any reference in this Act to preventing or detecting serious crime shall be construed accordingly.
- (9) In subsection (1) above—
- (a) the reference to a person having the right to use a vehicle does not, in relation to a motor vehicle, include a reference to a person whose right to use the vehicle derives only from having paid, or undertaken to pay, for the use of the vehicle and its driver for a particular journey; and
 - (b) the reference to premises occupied or used by any person for residential purposes or otherwise as living accommodation does not include a reference to so much of any premises as constitutes any common area to which the person has or is allowed access in connection with the person's use or occupation of any accommodation.
- (10) In this section—
- “ premises ” includes any vehicle or moveable structure and any other place whatever, whether or not occupied as land;
 - “ vehicle ” includes any vessel, aircraft or hovercraft.

Textual Amendments

- F1** Words in s. 31(1) inserted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 para. 94\(2\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(j)
- F2** S. 31(1): entries repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F3** Words in s. 31(1) omitted (1.9.2017) by virtue of [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 para. 94\(3\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(j)
- F4** Words in s. 31(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 15\(14\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F5** S. 31(1): definition of "police member" inserted (1.4.2007) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp10\)](#), ss. 101, 104, {[Sch. 6 para. 9\(14\)](#)}; S.S.I. 2007/84, [art. 3\(3\)](#)
- F6** Words in s. 31(1) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 15\(14\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F7** S. 31(4A) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 15\(14\)\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Changes to legislation:

There are currently no known outstanding effects for the Regulation of Investigatory Powers (Scotland) Act 2000, Section 31.